

**Washington Defender Association
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Mr. Ronald R. Carpenter
Clerk, Washington Supreme Court
Temple of Justice
PO Box 40929
Olympia, WA 98504-0929

Re: Comments on Proposed Amendments to CrR 3.1(d) and CrRLJ 3.1(d)(4), and JuCR 9.2(d)

Dear Mr. Carpenter,

I am writing on behalf of the Washington Defender Association (WDA) to express our appreciation and strong support of a rule assuring that appointed counsel possess the skill and resources necessary to represent indigent criminal defendants. We further agree that this determination is a judicial function, and that Washington's "Standards for Indigent Defense Services" articulate the appropriate factors.

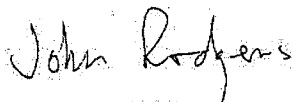
However, WDA asks that the amendments to CrR 3.1(d) and CrRLJ 3.1(d)(4), and JuCR 9.2(d) not be adopted in their present form and requests instead that the court further consider and refine the rule.

Some of the questions our members have raised about the current proposal include:

- (1) Whether this language assures that the court's determination of counsel's qualifications is objective, or permits a subjective departure from the Standards, and
- (2) Whether it would be more effective to periodically certify the indigent defense delivery system (or office) of the relevant jurisdiction, rather than each individual public defense attorney in each individual case, and
- (3) Whether judicial scrutiny of appointed counsel in a public courtroom, where there is no colloquy with private counsel regardless of qualifications, risks an appearance of disparate treatment, and
- (4) What bearing a pre-trial determination that appointed counsel is qualified would have on a claim of ineffective assistance on appeal, and
- (5) Whether a rule requiring scrutiny of counsel at the outset of a case would alter the court's existing duty to intervene upon evidence of ineffective assistance occurring subsequently in the case.

We strongly urge that more consideration be given to this rule. Thank you for your consideration.

Respectfully,



John Rodgers
President